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 Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

<p>In re:</p> <p>SILVER STATE BROADCASTING, LLC,</p> <p>AFFECTS THIS DEBTOR <input type="checkbox"/></p> <p>AFFECTS GOLDEN STATE BROADCASTING, LLC <input type="checkbox"/></p> <p>AFFECTS MAJOR MARKET RADIO, LLC <input type="checkbox"/></p> <p>AFFECTS ALL DEBTORS <input checked="" type="checkbox"/></p>	<p>CASE NO. BK-21-14978-ABL</p> <p>Chapter 11</p> <p><i>Jointly Administered with:</i></p> <p>Golden State Broadcasting, LLC Case No. 21-14979-ABL</p> <p>Major Market Radio, LLC Case No. 21-14980-ABL</p> <p><u>Hearing Date:</u> Date: OST Requested Time: OST Requested</p>
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**MOTION FOR ORDER DIRECTING THE DEBTORS OUT OF  
 POSSESSION TO TURNOVER DEBTORS' BOOKS AND RECORDS  
AND ASSETS TO CHAPTER 11 TRUSTEE**

Michael Carmel, in his capacity as the Chapter 11 trustee ("Trustee") of the bankruptcy estates of Silver State Broadcasting, LLC, Golden State Broadcasting, LLC, and Major Market Radio, LLC (collectively, the "Debtors"), hereby applies to this Court for entry of an order directing the debtors-out-of-possession, by and through their principal Mr. Edward R. Stolz (altogether, "Stolz"), to turnover the Debtors' books and records and assets to the Trustee. This motion (the "Motion") is made and based upon the points and authorities provided herein; the

1 declaration of Chapter 11 Trustee Michael Carmel, Esq. ("Carmel Decl.") filed  
 2 contemporaneously herewith pursuant to Local Rule 9014(c); as well as the papers and pleadings  
 3 on file herein, judicial notice of which is respectfully requested pursuant to FED. R. EVID. 201(b)  
 4 and (c) and 1101(a) and (b); and any argument of counsel entertained by the Court at the time of  
 5 the hearing on the Motion.

## 6 **I.** 7 **INTRODUCTION**

8 Michael Carmel was very recently appointed as the Chapter 11 Trustee for these Debtors.  
 9 Since his appointment, he has been seeking turnover of the Debtors' books and records to  
 10 determine the extent of the Debtors' assets, evaluating how to best generate revenue for these  
 11 Debtors' estates, and the appropriate sale process to maximize value. Immediately after he was  
 12 appointed, the Trustee spoke with the Debtors' principal, Mr. Edward R. Stolz, and asked for  
 13 turnover of the Debtors' books and records, keys, bank statements, bank accounts and access  
 14 thereto, and property or equipment of any kind belonging to the Debtors that is in Mr. Stolz's  
 15 possession. *See Carmel Decl.* at ¶ 4. To date, the Debtors' books and records and property have  
 16 not been turned over to the Trustee. *See Carmel Decl.* at ¶ 5.

17 The Trustee's access to the Debtors' books and records and property is imperative to his  
 18 administration of these Chapter 11 Cases. The Trustee needs to be apprised of all assets of the  
 19 Debtors' jointly administered estates and, without immediate turnover of the Debtors' books and  
 20 records and any other property of the Debtors in Mr. Stolz's control, the Trustee's investigation is  
 21 hindered. As the Trustee was very recently appointed, this Motion is brought on an immediate  
 22 basis to ensure that the Trustee is granted immediate turnover of the requisite books, records, and  
 23 property so that he can evaluate assets of the Debtors' estates and determine how best to formulate  
 24 a path forward in these Chapter 11 Cases.

## 25 **II.** 26 **PERTINENT FACTS**

27 1. On October 19, 2021 (the "Petition Date"), the Debtors filed their voluntary  
 28

1 petitions for relief under Chapter<sup>1</sup> 11 of the Bankruptcy Code, thereby commencing the above-  
 2 captioned bankruptcy cases (collectively, the “Chapter 11 Cases”). *See, e.g.*, ECF No. 1.

3 2. On November 19, 2021, this Court entered its *Order Authorizing Joint*  
 4 *Administration of Cases* [ECF No. 37], directing that “the Chapter 11 case of SILVER STATE  
 5 BROADCASTING, LLC (Case No. 21-14978-abl), shall be jointly administered with the Chapter  
 6 11 cases of GOLDEN STATE BROADCASTING, LLC (Case No. 21-14979-abl) and MAJOR  
 7 MARKET RADIO LLC (Case No. 21-14980-abl), with SILVER STATE BROADCASTING,  
 8 LLC designated as the Lead Case (“Lead Case”), and all papers relating to the above referenced  
 9 Debtors shall be docketed in the Lead Case (Case No. 21-14978-abl)[.]” *See* ECF No. 37 at p. 2  
 10 of 4.

11 3. On March 6, 2023, this Court entered its *Order on United States Trustee’s Motion*  
 12 *to Appoint Chapter 11 Trustee Under 11 U.S.C. § 1104(a), or, in the Alternative, to Convert Cases*  
 13 *to Chapter 7 Pursuant to 11 U.S.C. § 1112(b); and Memorandum of Point and Authorities in*  
 14 *Support and Reservation of Rights* [ECF No. 405], and *Creditor Mincin Law, PLLC’s Motion for*  
 15 *Appointment of Chapter 11 Trustee* [ECF No. 393], thereby directing the appointment of a Chapter  
 16 11 trustee for the Debtors’ estates. *See* ECF No. 419.

17 4. On March 10, 2023, Tracy Hope Davis, the United States Trustee for Region 17,  
 18 appointed the Trustee as the Chapter 11 trustee for Debtors’ estates. *See* ECF No. 420.

19 5. On March 10, 2023, the Court entered its *Order Approving Appointment of Chapter*  
 20 *11 Trustee* [ECF No. 422], thereby approving the Trustee’s appointment.

21 6. On March 13, 2023, the Trustee filed his *Notice of Acceptance of Appointment of*  
 22 *Chapter 11 Trustee*, accepting his appointment as the Chapter 11 trustee for the Debtors’ estates.  
 23 *See* ECF No.424.

24  
 25  
 26  
 27 <sup>1</sup> All references to “Section” herein shall be to the Bankruptcy Code appearing in Title 11 of the U.S. Code; all  
 28 references to “Bankruptcy Rule” shall refer to the Federal Rules of Bankruptcy Procedure; all references to “Civil  
Rule” shall refer to the Federal Rules of Civil Procedure; and all references to a “Local Rule” shall refer to the Local  
 Rules of Bankruptcy Practice of the U.S. District Court for the District of Nevada.



Debtors' Chapter 11 Cases in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Application is a "core proceeding" over which the Court has jurisdiction to render a decision.

14. The statutory basis for the relief requested herein arises from Section 542 of the Bankruptcy Code and Bankruptcy Rule 7001.

15. Pursuant to LR 9014.2, the Trustee consents to entry of final order(s) or judgment(s) by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders for judgment consistent with Article III of the United States Constitution.

#### IV. RELIEF REQUESTED

11 U.S.C. § 542(a) provides:

Except as [in circumstances inapplicable here], an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

Here, the Court should order Stolz to immediately turn over the Debtors' books and records, keys, bank statements, bank accounts and access thereto, assets, and all property or equipment of any kind belonging to the Debtors that is in Mr. Stolz's possession. Section 542(a) of the Bankruptcy Code requires turnover by an entity that is in "possession, custody, or control" of property that can be used sold or leased by the trustee during the Chapter 11 Cases. 11 U.S.C. § 542(a). The Court's jurisdiction and authority to demand turnover extends to wherever such property of the estate is found, regardless of location. 11 U.S.C. § 541(a).

"The failure to return property of the estate with a knowledge of the bankruptcy is a violation of both the automatic stay and of the turnover requirements of the Bankruptcy Code." *In re Cinevision Int'l, Inc.*, BAP No. CC-15-1227-FCTa, 2016 WL 638729, \*3 (B.A.P. 9th Cir. Feb. 17, 2016),<sup>2</sup> citing *In re Mwangi*, 432 B.R. 812, 823 (9th Cir. B.A.P. 2010), citing *In re Abrams*,

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<sup>2</sup> Ultimately, *Cinevision* was reversed and remanded on other grounds, for application of the civil contempt standard. See *In re Cinevision Interna'l, Inc.*, 697 Fed. Appx. 542, 543 (9th Cir. 2017).

1 127 B.R. 239, 242-43 (9th Cir. B.A.P. 1991) (*Mwangi was disapproved on other grounds in later*  
 2 *appeal*, 473 B.R. 802 (D. Nev. 2012) (*aff'd*, 764 F.3d 1168 (9th Cir. 2014))).

3 This Motion is brought on an immediate basis to ensure that the Trustee is granted  
 4 immediate turnover of the requisite books, records, and property in Mr. Stolz's possession so that  
 5 the Trustee can evaluate assets of the Debtors' estates and determine how best to formulate a path  
 6 forward in these Chapter 11 Cases. As scant materials have been turned over to the Trustee since  
 7 his appointment, it is imperative that Mr. Stolz immediately turn over to the Trustee the Debtors'  
 8 books and records, keys, bank statements, bank accounts and access thereto, assets, and all  
 9 property or equipment of any kind belonging to the Debtors that is in Mr. Stolz's possession.

10 **V.**  
 11 **CONCLUSION**

12 WHEREFORE, the Trustee respectfully requests entry of an order directing the debtors-  
 13 out-of-possession, by and through their principal, Edward R. Stolz, to turn over the Debtors' books  
 14 and records, keys, bank statements, bank accounts and access thereto, assets, and all property or  
 15 equipment of any kind belonging to the Debtors that is in Mr. Stolz's possession, within five days  
 16 of entry of an order approving this Motion, and for all other relief this Court deems just and proper

17 Dated this 4th day of April, 2023.

18 GARMAN TURNER GORDON LLP

19 By: /s/ Mary Langsner  
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